



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

HB2406

Introduced 2/17/2005, by Rep. Brandon W. Phelps

#### SYNOPSIS AS INTRODUCED:

225 ILCS 605/2	from Ch. 8, par. 302
225 ILCS 605/2.2	from Ch. 8, par. 302.2
225 ILCS 605/2.3 new	
225 ILCS 605/3	from Ch. 8, par. 303
225 ILCS 605/3.1	from Ch. 8, par. 303.1
225 ILCS 605/3.2	
225 ILCS 605/7	from Ch. 8, par. 307
225 ILCS 605/7.5 new	
225 ILCS 605/11	from Ch. 8, par. 311
225 ILCS 605/12	from Ch. 8, par. 312
225 ILCS 605/13	from Ch. 8, par. 313
225 ILCS 605/18	from Ch. 8, par. 318
225 ILCS 605/21	from Ch. 8, par. 321

Amends the Animal Welfare Act. Defines "animal", "animal rescue group", "companion animal", "dog daycare", "exotic or non-domesticated animal", and "humane society". Provides that the 4 animal limitation on foster homes does not include a foster home owner's personal animals or the offspring of a female animal until that offspring reaches the age of 8 weeks. Removes a provision requiring records relating to the origin and sale of dogs to be made available for inspection by the Secretary of Agriculture or the Department of Agriculture upon demand. Adds provisions concerning the location and review of records and requiring licensees to keep records of each transfer of non-human primates or exotic or non-domesticated animals. Adds dog daycares, animal rescue groups, humane societies, and foster homes to the list of businesses that require licensure in order to operate in the State. Exempts certain businesses and activities from the licensure requirement. Provides that in order to operate a foster home, a person must obtain sponsorship from an animal shelter, an animal rescue group, or a humane society, rather than a permit. Provides that a business that requires licensure must obtain approval from the Department before expanding the business by more than 20% or adding a new species of animal to the business. Provides that the Department may, upon its own motion or a verified complaint, investigate the actions of any person holding or claiming to hold a license (now, the Department may also investigate the actions of any applicant for initial issuance of a license). Provides that before refusing to renew a license, the Department shall notify the holder of a license that a hearing will be held on a designated date to determine whether the respondent is privileged to hold the license (now, the Department must also provide notice and set a hearing for an applicant before refusing to issue a license). Allows the release for sale, trade, or adoption of animals with diseases, injuries, or abnormalities if the transferee has knowledge of the disease, injury, or abnormality and has given written consent to the acceptance of the animal with the condition. Eliminates application fees for foster home permits and renewal of foster home permits. Makes other changes.

LRB094 09561 RAS 39812 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Animal Welfare Act is amended by changing  
5 Sections 2, 2.2, 3, 3.1, 3.2, 7, 11, 12, 13, 18, and 21 and by  
6 adding Sections 2.3 and 7.5 as follows:

7 (225 ILCS 605/2) (from Ch. 8, par. 302)

8 Sec. 2. Definitions. As used in this Act unless the context  
9 otherwise requires:

10 "Animal" means any mammal, bird, fish, or reptile offered  
11 for sale, trade, or adoption or for which a service is provided  
12 by any person licensed under this Act.

13 "Animal rescue group" means any person or entity that  
14 acquires animals from others, transfers the acquired animals to  
15 persons, and provides for or promotes the welfare, protection,  
16 and humane treatment of animals.

17 "Companion animal" means an animal that is commonly  
18 considered to be, or is considered by the owner to be, a pet.  
19 Companion animals include, but are not limited to, canines,  
20 felines, and equines.

21 "Department" means the ~~Illinois~~ Department of Agriculture.

22 "Director" means the Director of ~~the Illinois Department of~~  
23 Agriculture.

24 "Dog daycare" means any person or entity that operates a  
25 business that provides services for dogs, for a fee or other  
26 compensation, while the dog's owner is not present with the  
27 dog. Dog daycare services may include, but are not limited to,  
28 training, supervision, recreation, or socialization with  
29 people or other dogs and are provided in increments of time not  
30 to exceed 24 hours.

31 "Exotic or non-domesticated animals" means a mammal  
32 (including a non-human primate), reptile, or bird that is not

1 native to North America and is not maintained as livestock or a  
2 native mammal that is not domesticated and normally maintained  
3 as a pet, such as a prairie dog. Livestock includes, but is not  
4 limited to, llamas, ratites, cervids, and similar animals.  
5 Exotic or non-domesticated animals do not include hamsters,  
6 guinea pigs, gerbils, any member of the species felis catus  
7 that have been domesticated, or canis familiaris.

8 "Pet shop operator" means any person who sells, offers to  
9 sell, exchange, or offers for adoption with or without charge  
10 or donation dogs, cats, birds, fish, reptiles, or other animals  
11 customarily obtained as pets in this State. However, a person  
12 who sells only such animals that he has produced and raised  
13 shall not be considered a pet shop operator under this Act, and  
14 a veterinary hospital or clinic operated by a veterinarian or  
15 veterinarians licensed under the Veterinary Medicine and  
16 Surgery Practice Act of 2004 shall not be considered a pet shop  
17 operator under this Act.

18 "Dog dealer" means any person who sells, offers to sell,  
19 exchange, or offers for adoption with or without charge or  
20 donation dogs in this State. However, a person who sells only  
21 dogs that he has produced and raised shall not be considered a  
22 dog dealer under this Act, and a veterinary hospital or clinic  
23 operated by a veterinarian or veterinarians licensed under the  
24 Veterinary Medicine and Surgery Practice Act of 2004 shall not  
25 be considered a dog dealer under this Act.

26 "Secretary of Agriculture" or "Secretary" means the  
27 Secretary of Agriculture of the United States Department of  
28 Agriculture.

29 "Person" means any person, firm, corporation, partnership,  
30 association or other legal entity, any public or private  
31 institution, the State of Illinois, or any municipal  
32 corporation or political subdivision of the State.

33 "Kennel operator" means any person who operates an  
34 establishment, other than an animal control facility,  
35 veterinary hospital, or animal shelter, where dogs or dogs and  
36 cats are maintained for boarding, training or similar purposes

1 for a fee or compensation; or who sells, offers to sell,  
2 exchange, or offers for adoption with or without charge dogs or  
3 dogs and cats which he has produced and raised. A person who  
4 owns, has possession of, or harbors 5 or less females capable  
5 of reproduction shall not be considered a kennel operator.

6 "Cattery operator" means any person who operates an  
7 establishment, other than an animal control facility or animal  
8 shelter, where cats are maintained for boarding, training or  
9 similar purposes for a fee or compensation; or who sells,  
10 offers to sell, exchange, or offers for adoption with or  
11 without charges cats which he has produced and raised. A person  
12 who owns, has possession of, or harbors 5 or less females  
13 capable of reproduction shall not be considered a cattery  
14 operator.

15 "Animal control facility" means any facility operated by or  
16 under contract for the State, county, or any municipal  
17 corporation or political subdivision of the State for the  
18 purpose of impounding or harboring seized, stray, homeless,  
19 abandoned or unwanted dogs, cats, and other animals. "Animal  
20 control facility" also means any veterinary hospital or clinic  
21 operated by a veterinarian or veterinarians licensed under the  
22 Veterinary Medicine and Surgery Practice Act of 2004 which  
23 operates for the above mentioned purpose in addition to its  
24 customary purposes.

25 "Animal shelter" means a facility operated, owned, or  
26 maintained by a duly incorporated humane society, animal  
27 welfare society, or other non-profit organization for the  
28 purpose of providing for and promoting the welfare, protection,  
29 and humane treatment of animals. "Animal shelter" also means  
30 any veterinary hospital or clinic operated by a veterinarian or  
31 veterinarians licensed under the Veterinary Medicine and  
32 Surgery Practice Act of 2004 which operates for the above  
33 mentioned purpose in addition to its customary purposes.

34 "Foster home" means an entity that, or a person who,  
35 accepts the responsibility for stewardship of animals that are  
36 the obligation of an animal shelter, animal rescue group, or

1 humane society, not to exceed 4 animals at any given time. A  
2 female animal and offspring shall count as one animal until the  
3 offspring reach the age of 8 weeks. The 4 animal limitation  
4 does not include the foster home owner's personal animals. A  
5 foster home shall be sponsored by an animal shelter, animal  
6 rescue group, or humane society. ~~Permits to operate as a~~  
7 ~~"foster home" shall be issued through the animal shelter.~~

8 "Guard dog service" means an entity that, for a fee,  
9 furnishes or leases guard or sentry dogs for the protection of  
10 life or property. A person is not a guard dog service solely  
11 because he or she owns a dog and uses it to guard his or her  
12 home, business, or farmland.

13 "Guard dog" means a type of dog used primarily for the  
14 purpose of defending, patrolling, or protecting property or  
15 life at a commercial establishment other than a farm. "Guard  
16 dog" does not include stock dogs used primarily for handling  
17 and controlling livestock or farm animals, nor does it include  
18 personally owned pets that also provide security.

19 "Humane society" means any chartered, not-for-profit  
20 organization authorized to do business in this State and  
21 organized for the purpose of preventing cruelty to animals and  
22 promoting humane care and treatment of animals.

23 "Sentry dog" means a dog trained to work without  
24 supervision in a fenced facility other than a farm, and to  
25 deter or detain unauthorized persons found within the facility.  
26 (Source: P.A. 93-281, eff. 12-31-03.)

27 (225 ILCS 605/2.2) (from Ch. 8, par. 302.2)

28 Sec. 2.2. Sale of puppies and kittens. No dog dealer,  
29 kennel operator, or cattery operator shall separate a puppy or  
30 kitten from its mother, for the purpose of sale, until such  
31 puppy or kitten has attained the age of 8 weeks.

32 ~~All licensees under this Act shall maintain records of the~~  
33 ~~origin and sale of all dogs, and such records shall be made~~  
34 ~~available for inspection by the Secretary or the Department~~  
35 ~~upon demand. Such records must contain proof in proper form of~~

~~purebreds and their pedigree, and evidence of such proof must be provided to any person acquiring a dog from a licensee under this Act. In addition, guard dog services shall be required to maintain records of transfer of ownership, death, or disappearance of a guard dog or sentry dog used by that guard dog service.~~

(Source: P.A. 89-178, eff. 7-19-95.)

(225 ILCS 605/2.3 new)

Sec. 2.3. Records.

(a) In the case of dogs, all licensees under this Act shall maintain records of the origin and sale of all dogs. These records must contain proof of confinement that is in compliance with the requirements of the Centers for Disease Control and Prevention, if applicable, and proof in proper form of purebreds and their pedigree, and must be provided to any person acquiring a dog from a licensee under this Act. In addition, guard dog services shall be required to maintain records of transfer of ownership, death, or disappearance of a guard dog or sentry dog used by that guard dog service.

(b) In the case of non-human primates or exotic or non-domesticated animals, licensees shall keep records of each transfer of non-human primates, or exotic or non-domesticated animals, including prairie dogs. These records shall be maintained by the licensee for a minimum period of 12 months after the date of transfer of an animal and shall include the source of the animal, the date of transfer, a description and the sex of the animal transferred, and the name and address of the transferee. Records of transfers of small mammals, including hamsters, mice, gerbils, or rats that were born in the United States, and fish shall not be required.

(c) Records must be maintained at each location of a business where animals are kept. If a licensee does not have a place where animals are kept, then records must be kept in a centralized location. Records for foster homes must be kept by the animal rescue group, animal shelter, or humane society

1 sponsoring the foster home.

2 (d) Licensees shall permit authorized Department personnel  
3 to enter onto the premises where the records are kept for  
4 inspection during reasonable business hours or at other times  
5 deemed necessary by the Department to properly enforce this  
6 Act.

7 (225 ILCS 605/3) (from Ch. 8, par. 303)

8 Sec. 3. Necessity of licensure. Persons are prohibited from  
9 conducting the following activities as a business in Illinois,  
10 without a license issued by the Department, regardless of any  
11 compensation or charge for such activities: (i) boarding, (ii)  
12 supervising, (iii) socializing, (iv) selling, (v) offering to  
13 sell, (vi) exchanging, (vii) offering for adoption, or (viii)  
14 transferring animals. Types of businesses through which these  
15 activities are conducted include, but are not limited to, pet  
16 shop operators, dog dealers, kennel operators, cattery  
17 operators, guard dog service operators, animal control  
18 facilities, animal shelters, dog daycares, animal rescue  
19 groups, humane societies, foster homes, or any combination  
20 thereof. Those persons performing any of the activities set  
21 forth in this Section as they relate to animals that have been  
22 produced and raised by the person, shall be exempt from the  
23 requirements of this Section, provided that the person owns,  
24 has possession of, or harbors 5 or less females of any species  
25 of animal capable of reproduction. Those persons performing the  
26 activities set for in this Section as they relate to livestock  
27 shall also be exempt from the requirements of this Section. ~~No~~  
28 person shall engage in business as a pet shop operator, dog  
29 dealer, kennel operator, cattery operator, or operate a guard  
30 dog service, an animal control facility or animal shelter or  
31 any combination thereof, in this State without a license  
32 therefor issued by the Department. Only one license shall be  
33 required for any combination of businesses at one location,  
34 except that a separate license shall be required to operate a  
35 guard dog service. Each license shall state, on its face, every

1 type of business conducted at each location. Guard dog services  
2 that are located outside this State but provide services within  
3 this State are required to obtain a license from the  
4 Department. Out-of-state guard dog services are required to  
5 comply with the requirements of this Act with regard to guard  
6 dogs and sentry dogs transported to or used within this State.  
7 (Source: P.A. 89-178, eff. 7-19-95.)

8 (225 ILCS 605/3.1) (from Ch. 8, par. 303.1)

9 Sec. 3.1. Information on dogs and cats for sale. Every pet  
10 shop operator, dog dealer, and cattery operator shall provide  
11 to a customer or the Department upon request the following  
12 information for every dog or cat available for sale:

13 (a) The age, sex, and weight of the animal.

14 (b) The breed of the animal.

15 (c) A record of vaccinations and veterinary care and  
16 treatment.

17 (d) A record of surgical sterilization or lack of surgical  
18 sterilization.

19 (e) The name and address of the breeder of the animal.

20 (f) The name and address of any other person who owned or  
21 harbored the animal between its birth and the point of sale.

22 (g) A record of compliance with the requirements set forth  
23 by the Centers for Disease Control and Prevention, if  
24 applicable.

25 (Source: P.A. 87-819.)

26 (225 ILCS 605/3.2)

27 Sec. 3.2. Foster homes. A person shall not operate a foster  
28 home without first obtaining sponsorship ~~a permit~~ from the  
29 animal shelter, animal rescue group, or humane society for  
30 which that person will operate the foster home. ~~Upon~~  
31 ~~application and payment of the required fees by the animal~~  
32 ~~shelter, the Department shall issue foster home permits to the~~  
33 ~~animal shelter.~~ The animal shelter, animal rescue group, or  
34 humane society sponsoring the foster home shall be responsible

1 for the records and have all the obligations of stewardship for  
2 animals in the foster homes ~~to which it issues permits.~~

3 Foster homes shall provide the care for animals required by  
4 this Act ~~and shall report any deviation that might affect the~~  
5 ~~status of the license or permit to the animal shelter.~~

6 A foster home shall not care for more than 4 animals at any  
7 one time. A female animal and offspring shall count as one  
8 animal until the offspring reach the age of 8 weeks. The 4  
9 animal limitation does not include a foster home owner's  
10 personal animals.

11 (Source: P.A. 89-178, eff. 7-19-95.)

12 (225 ILCS 605/7) (from Ch. 8, par. 307)

13 Sec. 7. Applications for renewal licenses shall be made to  
14 the Department, shall be in writing on forms prescribed by the  
15 Department, shall contain such information as will enable the  
16 Department to determine if the applicant is qualified to  
17 continue to hold a license and shall be accompanied by the  
18 required fee, which shall not be returnable.

19 Each licensee must report to the Department the number of  
20 dogs, puppies, cats, kittens, and exotic or non-domesticated  
21 animals transferred in the previous calendar year at the time  
22 of application for license renewal.

23 (Source: P.A. 81-198.)

24 (225 ILCS 605/7.5 new)

25 Sec. 7.5. Business expansion. When a licensee desires to  
26 increase the number of animals of any species stated on the  
27 licensee's application by more than 20% or add another species  
28 of animal to the licensee's business operations, the licensee  
29 must contact the Department in writing to request approval by  
30 the Department for the expansion. The Department may deny the  
31 request for expansion if it appears that the licensee will be  
32 unable to comply with the applicable requirements set forth in  
33 this Act as a result of the expansion. If the Department denies  
34 the request for expansion, the licensee shall not be allowed

1 the expansion.

2 (225 ILCS 605/11) (from Ch. 8, par. 311)

3 Sec. 11. Investigations; hearings; notice; witnesses. The  
4 Department may upon its own motion and shall upon the verified  
5 complaint in writing of any person who has been the recipient  
6 of an animal through purchase, gift or adoption setting forth  
7 facts which if proved would constitute grounds for refusal to  
8 ~~issue or~~ renew or for suspension or revocation of a license  
9 under this Act, investigate the actions of ~~any applicant or~~ any  
10 person or persons holding or claiming to hold a license. The  
11 Department shall, before refusing to ~~issue or~~ renew, and before  
12 suspension or revocation of a license, at least 10 days prior  
13 to the date set for the hearing, notify in writing the  
14 ~~applicant for or~~ holder of a license, hereinafter called the  
15 respondent, that a hearing will be held on the date designated  
16 to determine whether the respondent is privileged to hold such  
17 license, and shall afford the respondent an opportunity to be  
18 heard in person or by counsel in reference hereto. Such written  
19 notice may be served by delivery of the same personally to the  
20 respondent, or by mailing the same by registered or certified  
21 mail to the place of business last theretofore specified by the  
22 respondent in the last notification to the Department.

23 At the time and place fixed in the notice, the Department  
24 shall proceed to hear the charges and both the respondent and  
25 the complainant shall be accorded ample opportunity to present  
26 in person or by counsel such statements, testimony, evidence  
27 and argument as may be pertinent to the charges or to any  
28 defense thereto. The Department may continue such hearing from  
29 time to time.

30 The Department, over the signature of the Director is  
31 authorized to subpoena and bring before the Department any  
32 person or persons in this State and to take testimony either  
33 orally or by deposition or by exhibit, with the same fees and  
34 mileage and in the same manner as prescribed by law in judicial  
35 proceedings in civil cases in circuit courts of this state.

1 Any authorized agent of the Department may administer oaths  
2 to witnesses at any hearing which the Department is authorized  
3 by law to conduct.

4 (Source: P.A. 83-338.)

5 (225 ILCS 605/12) (from Ch. 8, par. 312)

6 Sec. 12. Certified shorthand reporter; record of  
7 proceedings; transcript ~~Record of hearing~~. In accordance with  
8 Section 10-35 of the Illinois Administrative Procedure Act, the  
9 Department shall preserve a record of all proceedings at the  
10 hearing of any case involving refusal to ~~issue or~~ renew a  
11 license, or the suspension or revocation of a license, ~~or the~~  
12 ~~referral of a case for criminal prosecution~~. The record of any  
13 such proceeding consists of the notice of hearing, complaint,  
14 and all other documents in the nature of pleadings and written  
15 motions filed in the proceedings, the transcript of testimony  
16 and the report and orders of the Department. Copies of the  
17 transcript of the record may be obtained from the Department in  
18 accordance with the Illinois Administrative Procedure Act.

19 (Source: P.A. 91-357, eff. 7-29-99.)

20 (225 ILCS 605/13) (from Ch. 8, par. 313)

21 Sec. 13. Refusal to renew, suspension, revocation of  
22 license; service of report; motion for rehearing. In any case  
23 involving the refusal to ~~issue or~~ renew a license, or the  
24 suspension or revocation of a license, ~~or the referral of a~~  
25 ~~case for criminal prosecution~~, a copy of the Department's  
26 report shall be served upon the respondent, either personally  
27 or by registered or certified mail as provided in this Act, for  
28 the service of the notice of hearing. Within 20 days after such  
29 service, the respondent may present to the Department a motion  
30 in writing for a rehearing, which written motion shall specify  
31 the particular grounds therefor. If no motion for rehearing is  
32 filed, then upon the expiration of the time specified for  
33 filing such a motion, or if a motion for rehearing is denied,  
34 then upon such denial, the Director may enter an order in

1 accordance with recommendations of the report. If the  
2 respondent orders and pays for a transcript of the record  
3 within the time for filing a motion for rehearing, the 20 day  
4 period within which such a motion may be filed shall commence  
5 upon the delivery of the transcript to the respondent.

6 (Source: P.A. 81-198.)

7 (225 ILCS 605/18) (from Ch. 8, par. 318)

8 Sec. 18. Sanitary and health conditions.

9 (a) A ~~The~~ licensee who maintains a facility where animals  
10 are kept, excluding foster homes, shall:

11 (1) ~~a.~~ Maintain sanitary conditions.

12 (2) ~~b.~~ Insure proper ventilation.

13 (3) ~~c.~~ Provide adequate nutrition.

14 (4) ~~d.~~ Provide humane care and treatment of all animals  
15 under his jurisdiction.

16 (5) ~~e.~~ Take reasonable care to release for sale, trade, or  
17 adoption only those animals which are free of disease, injuries  
18 or abnormalities, except that the licensee may release for  
19 sale, trade, or adoption animals with diseases, injuries, or  
20 abnormalities, provided that the transferee has knowledge of  
21 the disease, injury, or abnormality and has given written  
22 consent to the acceptance of the animal with the condition. A  
23 health certificate, meeting the requirements of the Department  
24 and issued by a licensed veterinarian for any such animal  
25 within 5 days before such sale, trade or adoption is prima  
26 facie evidence that the licensee has taken reasonable care, as  
27 required by this paragraph.

28 (6) Permit authorized Department personnel entrance onto  
29 the premises of the licensee during reasonable business hours  
30 or at other times deemed necessary by the Department for the  
31 inspection of animals and places where animals are kept by the  
32 licensee and to properly enforce the Act. ~~f.~~ Inspection of the  
33 premises of a licensee to determine compliance with this Act  
34 may be made only by the Department.

35 (b) A licensee who does not maintain a place where animals

1 are kept shall comply with paragraphs (4) and (5) of subsection  
2 (a).

3 (c) A licensee who maintain a foster home shall comply with  
4 paragraphs (3), (4), (5), and (6) of subsection (a).

5 (Source: P.A. 78-900.)

6 (225 ILCS 605/21) (from Ch. 8, par. 321)

7 Sec. 21. The following fees shall accompany each  
8 application for a license, which fees shall not be returnable:

9 a. for an original license to an individual ..... \$25

10 b. for an original license to a partnership or  
11 corporation..... \$25

12 c. for an annual renewal license ..... \$25

13 d. for each branch office license ..... \$25

14 e. for the renewal of any license not renewed by  
15 July 1 of the year ..... \$40

16 f. (blank) ~~for a permit for a foster home~~ ..... ~~\$25~~

17 g. (blank) ~~for renewal of a permit for a foster home~~ .. ~~\$25~~

18 (Source: P.A. 89-178, eff. 7-19-95.)